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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,782	09/29/2003	Peter Nilsson	03370-P0046A	2485

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EXAMINER

WILLIAMS, THOMAS J

ART UNIT PAPER NUMBER

3683

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/673,782	Applicant(s) NILSSON ET AL.	
	Examiner Thomas J. Williams	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/>Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|---|--|

### DETAILED ACTION

1. Acknowledgment is made in the receipt of the remarks filed September 12, 2005.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 5, 7, 8, 10-13, 15-17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,410,993 to Giers.

Re-claims 1 and 12, Giers discloses an electrically controlled braking system, comprising: at least one control unit (such as units 1 and 2) for generating control signals indicative of a demand for braking; a first and second brake component 5/6; a first and second control network, see figure (the network is interpreted as being any one of the signal connection lines, in particular the signal line between one of the MP units and one of the commuters 9 or 10); a first and second auxiliary control link (one auxiliary link is associated with each control unit) utilized during periods of normal network failure.

Re-claims 2, 4, 7, 11, 13, 15, 16 and 20, see figure.

Re-claim 5, the figure illustrates one diagonal line of a diagonal brake system, see column 4 lines 1-2, it is anticipated that the other diagonal line in the diagonal brake system is provided with the same brake control setup, the second line will have a third and fourth brake component and associated auxiliary control link.

Re-claims 8 and 17, see column 4 lines 6-10.

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Re-claims 10 and 19, see column 3 lines 17-20.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3, 9, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giers in view of US 6,231,133 to Tsukamoto.

Re-claims 3 and 14, Giers fails to teach the plural control units comprise a single control unit. Tsukamoto teaches an electrically controlled brake system having either a single control unit or plural control units. Each is considered functionally equivalent. It would have been obvious to one of ordinary skill in the art to have provided the brake system of Giers with a single control unit as taught by Tsukamoto, thus reducing costs.

Re-claims 9 and 18, Giers fails to teach the first and second brake component disposed on a common axle. Tsukamoto teaches an electrically controlled brake system as having either an X

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distribution (as in Giers) or having a parallel distribution (the actuators being on a common axle).

It would have been obvious to one of ordinary skill in the art to have utilized the brake system of Giers with a parallel brake system as taught by Tsukamoto, thus exploiting the advantages of each type of distribution system.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of copending Application No. 10/674,199. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to have designated or to have provided a power supply to the control unit in '782, thus provided the control unit the capability of performing its intended function. As known in the art a control unit cannot function without a source of power.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented. However, a notice of allowance was mailed on June 21, 2005.

***Response to Arguments***

9. Applicant's arguments filed September 12, 2005 have been fully considered but they are not persuasive. As stated above the network is broadly interpreted to include any of the signal lines between the illustrated operating elements (such as the MP, actuator or commuter). A failure, such as a line break between one of the MP and the commuter, will constitute a failure in one of the networks. At which time an auxiliary link is established between actuator in the failed network to the properly operating network. Control signals are thus transmitted over the auxiliary link to the actuator associated with the failed network. Thus it is the opinion of the examiner that the limitations as presented have been properly addressed. The remarks submitted appear to be more specific than the claim language. In particular the examiner does not agree with the assessment by the applicant that the commuters in Giers constitute the entire network.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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11. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is 571-272-7128. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan, can be reached at 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-6584.

TJW

November 10, 2005

THOMAS WILLIAMS  
PATENT EXAMINER

Thomas Williams  
AU 3683  
11-10-05